

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BRADLEY BENES, individually, and on behalf)
of all others similarly situated,)
Plaintiff,) Case No. 1:22-cv-3177
)
v.)
CENLAR FSB,)
Defendant)

NOTICE OF REMOVAL

Defendant Cenlar FSB (“Cenlar”) hereby removes this action to this Court from the Circuit Court of DuPage County, Illinois, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. As grounds for removal, Cenlar states the following:

THE STATE COURT ACTION

1. Plaintiff Bradley Benes initiated a putative class action lawsuit by filing a complaint in the Circuit Court of DuPage County, Illinois on or about May 3, 2022. This action was pending in the state court as Case Number 2022MR000267 (the “State Court Action”).

2. The complaint alleges that Cenlar violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”) by making false and misleading statements to Plaintiff and members of the putative class in its attempt to collect debts. (Compl. at ¶¶ 47-51.) Pursuant to Rule 23 of the Federal Rules of Civil Procedure,¹ Plaintiff purports to bring these claims on behalf of a) all individuals residing in the State of Illinois; b) who received written correspondence from Cenlar; (3) which was the same or substantially similar to the

¹ While Plaintiff filed the Complaint in the DuPage County Circuit Court, he cites Federal Rule of Civil Procedure 23 in the Complaint instead of the equivalent state court rule for class certification.

correspondence that Cenlar sent to Plaintiff; (4) while Cenlar was attempting to collect a mortgage loan that was in default when it began servicing; and (5) and which mortgage loan was discharged in a Chapter 7 or Chapter 13 bankruptcy proceeding. (Compl., ¶¶, 25, 26.)

PROCEDURAL REQUIREMENTS FOR REMOVAL

3. Plaintiff served a summons and complaint on Cenlar on or about May 17, 2022. Removal is, therefore, timely because Cenlar filed this notice within 30 days after being first served with a copy of the summons and complaint. *See 28 U.S.C. § 1446(b)(1); Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999) (holding that the removal deadline is triggered by formal service of process).

4. For removal purposes, venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because the United States District Court for the Northern District of Illinois, Eastern Division, is the federal judicial district and division embracing the Circuit Court of DuPage County, Illinois, where Plaintiff filed the State Court Action.

5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 because the Complaint asserts a violation of the FDCPA. (*See* Compl., ¶¶ 40-51.)

6. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, orders, and other filings served upon Cenlar in the State Court Action are attached hereto as **Exhibit 1**.

7. Pursuant to 28 U.S.C. § 1446(d), and concurrently with the filing of this Notice of Removal, Cenlar will (1) serve Plaintiff with a copy of the Notice of Removal, and (2) file a

copy of the Notice of Removal in the State Court Action. A copy of the Notice of Filing of Notice of Removal that will be filed in the State Court Action is attached hereto as Exhibit 2.²

SUBJECT MATTER JURISDICTION EXISTS

8. 28 U.S.C. § 1441(a) provides that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction” may be removed to the federal district court located where the action is pending.

9. This Court has federal subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331, which vests federal district courts with original jurisdiction over civil actions “arising under the Constitution, laws, or treaties of the United States.”

10. Plaintiff has alleged that Cenlar violated the FDCPA, which is a federal statute governing debt collection practices. Thus, this action arises under the laws of the United States.

11. Removal of this case is thus proper under 28 U.S.C. § 1441(a) and 28 U.S.C. § 1331.

ADDITIONAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED

12. Cenlar has paid all fees required by law in connection with this notice of removal.

13. All other requirements for removal and for federal court jurisdiction have been satisfied.

14. By filing this notice of removal and the associated attachments, Cenlar does not waive any objections it may have as to service, jurisdiction, or venue, or any other claims, defenses, or objections available to it in this action. Furthermore, Cenlar intends no admission of fact, law, or liability by this notice and expressly reserves all defenses, motions, and pleas.

² Cenlar has not attached the exhibit to the Notice of Filing of Notice of Removal because the exhibit is this Notice of Removal.

15. If any questions arise as to the adequacy or propriety of the removal of this action, Cenlar requests the opportunity to supplement this notice with additional evidence and/or to brief any disputed issues and present oral argument in support of this removal.

Cenlar hereby removes this action from the Circuit Court of DuPage County, Illinois to the United States District Court for the Northern District of Illinois, so that this Court may assume jurisdiction over this cause as provided by law.

Dated: June 16, 2022

CENLAR FSB

By: /s/ Ryan A. Sawyer
One of its attorneys

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CERTIFICATE OF SERVICE

I, Ryan A. Sawyer, an attorney, certify that the foregoing was served upon all parties entitled to notice via the Court's CM/ECF. I further certify that I caused the foregoing to be served upon those persons or entities identified below by electronic mail on June 16, 2022 to the address below.

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